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HOUSE BILL 1925 By
Ford S

SENATE BILL 1884
By McNally

AN ACT to amend Tennessee Code Annotated,
55-10-416, relative to open container law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-416, is amended by deleting the section in its entirety and by substituting instead the following:

55-10-416. OPEN CONTAINER LAW

(a)(1) It shall be unlawful for any person to possess any open alcoholic beverage container or to consume any alcoholic beverage in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in this state.

(2) For purposes of this section:

(A) "Open container" means any container containing alcoholic beverages or beer, the contents of which are immediately capable of being consumed or the seal of which has been broken;

(B) "Public highway or right-of-way of a public highway" means the entire width between the right-of-way boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(b) Nothing in this act shall prohibit:

- (1) The possession of an open alcoholic beverage container in the glove compartment of a motor vehicle provided such compartment is locked:
- (2) The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; nor
- (3) The possession of an open alcoholic beverage container in any area not normally occupied by the driver or a

passenger in a motor vehicle that is not equipped with a trunk; nor

- (4) The possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation (such as buses, taxis, and limousines); nor
- (5) The consumption of an alcoholic beverage by an individual who is strictly a passenger, and not the driver, in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation (such as buses, taxis, and limousines); nor
- (6) The possession of an open alcoholic beverage container by an individual who is strictly a passenger, and not the driver, in the living quarters of a house coach or house trailer; nor
- (7) The consumption of any alcoholic beverage by an individual who is strictly a passenger, and not the driver, in the living quarters of a house coach or house trailer.

(c)(1) A violation of this section is a Class C misdemeanor punishable only by a fine of fifty dollars (\$50.00); provided that any person violating this section shall be issued only one (1) citation for each incident regardless of the number of open containers in the passenger area of the motor vehicle.

- (2) A law enforcement officer observing a violation of this section shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this section unless the offender refuses to sign and accept the citation as provided in § 40-7-118.
- (3) No court costs shall be imposed or assessed against anyone convicted of a violation of this section, including but not limited to any statutory fees of officers. No litigation tax levied pursuant to the provisions of title 67, chapter 4, part 6 shall be imposed or assessed against anyone convicted of a violation of this section.
- (4) All proceeds from the fine imposed by this section shall be transmitted to the commissioner of the department of health for deposit in the special "alcohol and drug addiction treatment fund" administered by such department.

(d) The provisions of this section shall not be construed to prohibit any municipality, by ordinance, or any county, by resolution, from prohibiting the driver and passengers in a motor vehicle from consuming or possessing an alcoholic beverage or beer in an open container in the passenger area of any motor vehicle located on a public highway or right-of-way of a public highway.

SECTION 2. This act shall take July 1, 2001, the public welfare requiring it.